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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,456	06/14/2006	Peter-Andre REDERT	NL031480	6883

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BRIARCLIFF MANOR, NY 10510

EXAMINER

NGUYEN, PHU K

ART UNIT

PAPER NUMBER

2628

MAIL DATE

DELIVERY MODE

06/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/596,456

Applicant(s)

REDERT ET AL.

Examiner

Phu K. Nguyen

Art Unit

2628

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-4 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent (see *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) and recent Federal Circuit decisions (see *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008)) indicate that a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. In claim 1, the claimed method is not explicitly tied to a statutory apparatus; furthermore, the claimed steps of projecting and scaling can be manually or mentally performed without any involvement of a statutory apparatus; therefore, the claim 1 is rejected as non-statutory under 35 USC 101. Similarly, claims 2-4 are rejected under the same reason.

Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Although the claimed computer product has not been specifically defined in Applicant's Specification, but it seems to claim "a computer

program" per se which is non-statutory under 35 USC 101. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035..

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over PRIOR ART (figure 1) in view of FOLEY et al. (Computer Graphics, Principles and Practices).

As per claim 1, Prior Art teaches the claimed "method of scaling a three-dimensional input model (100) in a three-dimensional input space into a three-dimensional output model (200) (Prior Art, figure 1, model 102) which fits in a

predetermined three-dimensional output space (104), whereby a first input surface (106) in the three-dimensional input space, having a first distance to a viewpoint, is projected to a first output surface (110) in the predetermined three-dimensional output space by applying a first scaling factor and whereby a second input surface (108) in the three-dimensional input space, having a second distance to the viewpoint, which is smaller than the first distance, is projected to a second output surface (112) in the predetermined three-dimensional space, by applying a second scaling factor. It is noted that Prior Art does not teach "the second scale factor which is larger than the first scaling factor" as claimed. However, such change of scale factor, based on the distance to the view point, is well known in the art, called perspective projection (Foley, Foley, equation 6.2, page 254; "the division by z causes the perspective projection of more distance objects to be smaller than that of closer objects"). Thus, it would have been obvious in view of the teaching of Foley to provide a perspective projection to configure Prior Art's method as claimed because the perspective projections performing different scale factors on the surfaces of an objects based on their depths yields a realistic representation of objects in 3D space.

Claim 2 adds into claim1 "whereby a first input data point of the three-dimensional input model (100), being located at the first input surface (106) is projected to a first output data point of the three-dimensional output model, being located at the first output surface (110) by means of a perspective projection relative to the viewpoint" (Foley, figure 6.42, perspective projection).

Claim 3 adds into claim 2 "whereby a second input data point of the three-dimensional input model (100), being located at the second input surface (108) is projected to a second output data point of the three-dimensional output model, being located at the first output surface (110) by means of a perspective projection relative to the viewpoint" (Foley, figure 6.42, perspective projection).

Claim 4 adds into claim 2 "whereby a second input data point of the three-dimensional input model (100), being located at the second input surface (108) is projected to a second output data point of the three-dimensional output model, being located at the first output surface (110) by means of a perspective projection relative to a further viewpoint" which would have been obvious in view of Foley's perspective projection because under different view points in perspective projection, the scale of projection dependent upon the viewpoints is changed accordingly..

Claims 5-7 claim an apparatus based on the method of claims 1-4; therefore, they are rejected under the same reason.

Claim 8 claims a computer program product comprising instructions to perform the method of claim 1; therefore, it is rejected under the same reason.

In reviewing of the Application, it is noted that the Foley reference cited in Documents submitted with 371 Applications is available to Applicant; therefore, its copy of the cited reference will not be provided to Applicant.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phu K. Nguyen whose telephone number is (571) 272 7645. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on (571) 272 7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Phu K. Nguyen/
Primary Examiner, Art Unit 2628

Application/Control Number: 10/596,456
Art Unit: 2628

Page 7